

THIS DISPOSTION IS NOT CITABLE AS
PRECEDENT OF THE TTAB

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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re *The Inspirational Network, Inc.*

Serial No. 74/715,137

Karl S. Sawyer, Jr. of Kennedy, Covington & Hickman, L.L.P.
for *The Inspirational Network, Inc.*

Barney L. Charlton, Trademark Examining Attorney, Law Office
105 (*Thomas G. Howell*, Managing Attorney).

Before *Hohein*, *Hairston* and *Wendel*, Administrative
Trademark Judges.

Opinion by *Hairston*, Administrative Trademark Judge:

The Inspirational Network, Inc. has appealed from the
final refusal of the Trademark Examining Attorney to
register the mark ULTRA-C for nutritional supplement,
namely, vitamin C.¹ The Examining Attorney has refused
registration under Section 2(d) of the Trademark Act,
contending that applicant's mark, if applied to the

identified goods, would so resemble the mark ULTRA-CEE, which is registered for vitamins,² as to be likely to cause confusion.

Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

Turning first to the goods, we note that applicant's brief is silent on this factor for good reason. Inasmuch as the goods in the cited registration are vitamins, unlimited as to type, and the goods set forth in the application are a nutritional supplement, namely vitamin C, applicant's and registrant's goods are legally identical. Also, absent any limitations in the respective identifications, the goods must be presumed to move through all normal channels of trade for goods of this type and to reach all normal purchasers and users. See *Miles Laboratories, Inc. v. Naturally Supplements, Inc.*, 1 USPQ2d 1445 (TTAB 1986) and cases cited therein.

Turning then to the marks, the Examining Attorney contends that applicant's mark ULTRA-C and the cited mark ULTRA-CEE are identical in sound and connotation and substantially similar in appearance. In support of the refusal to register, the Examining Attorney made of record

¹ Application Serial No. 74/715,137 filed August 14, 1995; alleging a bona fide intention to use the mark in commerce.

an excerpt from Webster's New Collegiate Dictionary (1979) wherein the term "cee" is defined as "the letter c."

Applicant, however, argues that the registered mark is weak and entitled to a limited scope of protection; and that the marks are distinguishable because applicant's mark ends with the single letter "C," whereas the registered mark ends in the suffix "CEE." In support of its contention that applicant's mark is weak, applicant submitted a list of registered marks which contain the term ULTRA for vitamin and mineral supplements. We should note that the submission of a list of registered marks is not the proper way to make such material of record. Rather, plain copies of the registrations or the electronic equivalent thereof, namely printouts of the registrations from the Office's X-search automated records, are required for this purpose. See *in re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983). However, inasmuch as the Examining Attorney did not object to the list of registered marks, we have considered the material.

In this case, the various registrations of marks containing the word ULTRA indicate that this word was chosen by the trademark owners to suggest that their

² Registration No. 1,102,507 issued September 19, 1978; Sections 8 & 15 affidavit filed.

vitamins and mineral supplements are of the highest potency. However, assuming that marks containing the term "ULTRA" are weak, even weak marks are entitled to protection where confusion is likely. In this case, the marks at issue are identical in sound and connotation and substantially similar in appearance, and the goods are legally identical. Further, because the term "cee" means the letter "c," consumers are unlikely to distinguish the marks on the basis of the "C" and "CEE" portions.

In sum, we find that consumers familiar with the registered mark ULTRA-CEE for vitamins would be likely to believe, upon encountering the mark ULTRA-C for vitamin C, that the goods originate with or are associated with the same source.

Decision: The refusal to register is affirmed.

G. D. Hohein

P. T. Hairston

H. R. Wendel
Administrative Trademark
Judges, Trademark Trial and
Appeal Board

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